

## REMARKS

This Amendment is filed in response to the Office Action dated December 28, 2005, which has a shortened statutory period set to expire March 28, 2006.

### Allowable Subject Matter

Applicant greatly appreciates the Examiner's indication of allowable subject matter. Specifically, Claims 7-8, 11-20, 24-28, 31-39, and 46-47 are objected to as being dependent on rejected base claims, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 7, 11, 12, 15, 17, 19, 24, 31, 38, 43, and 47 have been rewritten in independent form including all of the limitations of the base claim and any intervening claims. Therefore, Applicant requests reconsideration and withdrawal of the rejection of Claims 7, 11, 12, 15, 17, 19, 24, 31, 38, 43, and 47.

Claims 8, 9, and 10 depend from Claim 7 and therefore are patentable for at least the reasons presented for Claim 7. Claims 13 and 14 depend from Claim 12 and therefore are patentable for at least the reasons presented for Claim 12. Claim 16 depends from Claim 15 and therefore is patentable for at least the reasons presented for Claim 15. Claim 18 depends from Claim 17 and therefore is patentable for at least the reasons presented for Claim 17. Claim 20 depends from Claim 19 and therefore is patentable for at least the reasons presented for Claim 19. Claims 25-30 depend from Claim 24 and therefore are patentable for at least the reasons presented for Claim 24. Claims 32-37 depend from Claim 31 and therefore are patentable for at least the reasons presented for Claim 31. Claim 39 depends from Claim 38 and therefore is patentable for at least

the reasons presented for Claim 38. Claims 44-46 depend from Claim 43 and therefore are patentable for at least the reasons presented for Claim 43. Therefore, Applicant also requests reconsideration and withdrawal of the rejection of Claims 8-10, 13-14, 16, 18, 20, 25-30, 32-37, 39, and 44-46.

#### Applicant Addresses 112 Rejections

Claims 1, 21, and 40 are cancelled, thereby rendering the rejection of those claims moot. Applicant has amended various claims to ensure that the antecedent basis for "the measurement beam" is provided. Based on these amendments, Applicant submits that Claims 9, 11-15, 17, and 19 particularly point out and distinctly claim the subject matter of Applicant's invention. Therefore, Applicant requests reconsideration and withdrawal of the rejection of Claims 9, 11-15, 17, and 19.

#### Claims 5-6 and 43-46 Are Patentable Over Rosencwaig

Claim 5 recites:

adjusting a position of the test sample to simultaneously focus the first cleaning beam and the measurement beam on the analysis location.

Similarly, Claim 43 recites:

means for positioning the analysis subsystem and the cleaning subsystem so that the measurement beam and the cleaning beam are simultaneously focused on the analysis location.

Applicant respectfully submits that Rosencwaig fails to disclose or suggest these limitations. Therefore, Applicant requests reconsideration and withdrawal of the rejection of Claims 5 and 43.

Claim 6 depends from Claim 5 and therefore is patentable for at least the reasons presented for Claim 5. Claims 44-46

depend from Claim 43 and therefore are patentable for at least the reasons presented for Claim 43. Therefore, Applicant requests reconsideration and withdrawal of the rejection of Claims 6 and 44-46.

Claims 48-51 Are Patentable Over Rosencwaig

Claim 48 recites in part:

wherein the cleaning beam and the metrology operation share a common optical path.

Similarly, Claim 49 recites in part:

wherein the analysis subsystem and the cleaning subsystem share a common optical path.

Applicant respectfully submits that Rosencwaig fails to disclose or suggest these limitations. Therefore, Applicant submits that Claims 48 and 49 are patentable over Rosencwaig.

Claims 50-51 depend from Claim 49 and therefore are patentable for at least the reasons presented for Claim 49. Based on those reasons, Applicant submits that Claims 50-51 are also patentable over Rosencwaig.

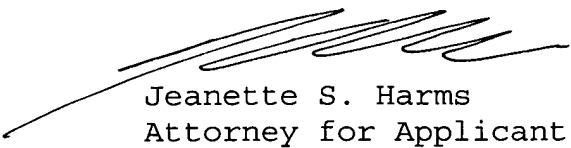
CONCLUSION

Claims 5-20, 24-39, and 43-47 are pending in the present application. Allowance of these claims is respectfully requested.

If there are any questions, please telephone the undersigned at 408-451-5907 to expedite prosecution of this case.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as FIRST CLASS MAIL in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 24, 2006.

3/24/2006  
Date

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